

Plaintiff also requests that the court award “Costs and Expenses” including \$24,917.71 in “Consultant’s Fees” and \$36,897.77 in Attorney’s Fees for a total award of \$61,815.48, which, the court notes, exceeds the outstanding balance on the underlying damages from the bond payments. With respect to attorney’s fees, the requested amount far exceeds what is allowable under applicable North Carolina law which specifically disallows attorney’s fees, even pursuant to an unambiguous contractual agreement, without statutory authority. Stillwell Enters., Inc. v. Interstate Equip. Co., 300 N.C. 286, 266 S.E.2d 812 (1980). While N.C. Gen. Stat. § 6-21.2 allows for the award of attorney’s fees in cases such as this, see, e.g. U.S. ex rel. SCCB, Inc. v. P. Browne & Associates, Inc., 751 F. Supp. 2d 813, 815 (M.D.N.C. 2010) (citing Stillwell, 300 N.C. at 290-92), it limits the recoverable amount to 15% of the outstanding balance. N.C. Gen. Stat. § 6-21.2(2). As such, plaintiff is statutorily limited to \$9,751.24 in attorney’s fees.

With respect to the \$24,917.71 in “Consultant’s Fees,” the court can find no authority, statutory or otherwise, for the award of such costs. While 28 U.S.C. § 1920 and Local Rule 54.1 allow for the taxation of witness fees at the applicable statutory rate, see 28 U.S.C. § 1821, there is no provision for consultant fees, and certainly not in such an exorbitant amount. It is true that upon default, a plaintiff’s allegations are to be taken as fact but the court cannot award relief that is not authorized by law. As such plaintiff’s motion will be denied as to the roughly \$25,000 in “Consultant’s Fees.”

ORDER

IT IS, THEREFORE, ORDERED that plaintiff’s Motion for Default Judgment (#9) is **GRANTED IN PART AND DENIED IN PART** as follows:

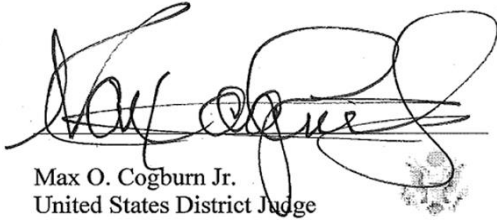
JUDGMENT BY DEFAULT

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED that Judgment is entered in favor of plaintiff in the amount of \$60,832.31 for damages from the underlying claim.

IT IS FURTHER ORDERED that plaintiff be awarded \$9,751.24 in attorney's fees, consistent with N.C. Gen. Stat. § 6-21.2.

IT IS FURTHER ORDERED that plaintiff's request for "Consultant's Fees" is **DENIED**. Plaintiff is free to file a Bill of Costs with the Clerk of this Court for allowable costs not inconsistent with this Order.

Signed: June 18, 2013



Max O. Cogburn Jr.
United States District Judge